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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,426	03/12/2002	Kevin Cogley	P-6265	9779

7590

06/18/2003

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EXAMINER

HO, TARA

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 06/18/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/913,426

Applicant(s)

COGLEY ET AL.

Examiner

Tara M. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. This action is in response to applicant's amendment filed 4/22/2003.
2. Claim 9 has been cancelled.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Cariati ('596).

Cariati discloses a fastener delivery tube 104, fasteners 102, a setting tool 103, connected to a source of pressurized gas 116, a sealable passage 12,13 the pressure of the pressurized gas being 2 bar or less (col. 5, lines 5-10), the path of the gas is coaxial with the longitudinal axis of the tube (Fig. 4, col. 2, lines 45-67 and col. 3, lines 1-15), a sealable passage gate or ball valve 13a, 51, and a gas cushion formed around the fastener (Fig. 2), delivery tube has external features (Figs. 2 and 3).

Claim Rejections - 35 USC § 103

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cariati.

Cariati discloses the invention substantially as claimed except for the use of additional air to clean the rivets of dirt and debris. However, the Examiner takes Official Notice of the use of additional air in a tool to clean the rivets of dirt and debris to be old and well known in the art. Therefore, it would have been obvious to have included an additional air source in Cariati's tool for the purpose of providing a better cleaning system for the fasteners.

Response to Arguments

7. Applicant's arguments filed 4/22/2003 have been fully considered but they are not persuasive.

8. Applicant contends that Cariati does not disclose a fastener delivery tube connected to a source of pressurized gas having an internal cross section conformed to the size and shape of the fastener. More specifically, applicant argues that Cariati's tube is merely a conveyor.

This is not found persuasive because a rejection under 35 USC § 102 is deemed proper if a reference discloses all the claimed references. In this instance, Claim 1

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merely recites "a fastener delivery tube connected between a supply of fasteners and a setting tool...connected to a source of pressurized gas for conveying fasteners along said tube...the supply of fasteners is connected to the delivery tube via a sealable passage." It is respectfully submitted that Cariati teaches the claimed features of the invention, including the fastener delivery tube 104 which is "housed inside an enclosed, trackmounted base not shown, provided with a track 107." Also, the sealable passage is connected from the duct 12 and the inlet 13 denoted as 13a, a shutter which "opens and shuts the inlet." This and various parts of Cariati make up the delivery tube having a sealable passage with pressurized gas to allow the supply of fasteners to advance.

Applicant contends that the delivery tube cross section and air source supply bore are conformed to fit the size and shape of the fastener. However, as shown in Fig. 2, the fastener fits in the cross section of the delivery tube and supply bore of the air source.

Therefore, for the reasons stated above, the grounds for rejection are deemed proper.

Conclusion

9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara M. Ho whose telephone number is (703)305-8204. The examiner can normally be reached on Mon-Thurs 7-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703)308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9302 for regular communications and (703)872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1138.

tmh
June 2, 2003



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700